

UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY

MARK S. HANNA, ESQ. (MH6108) (NJ ID 021792003)
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350 Mount Kemble Avenue
Morristown, NJ 07962
(973) 267-0058
Attorneys for Defendants,
All About the Baby LLC and Lloyd Ecker

RICHARD M. ZELMA,

Plaintiff,

v.

Civil Action No.

NOTICE OF REMOVAL

LLOYD ECKER, individually, and LLOYD ECKER a/k/a LLOYD ECKER ENTERPRISES, and LLOYD ECKER as OWNER, OFFICER, managing member for ALL ABOUT THE BABY LLC, and ALL ABOUT THE BABY LLC, d/b/a ALL ABOUT THE BABY ENTERPRISES LLC, and DOES' (1-5) and ABC CORPORATIONS' (1-5); EACH ACTING INDIVIDUALLY, IN CONCERT OR AS A GROUP,

Defendants.

TO: CHIEF JUDGE AND JUDGES OF THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF NEW JERSEY

ON NOTICE TO: RICHARD M. ZELMA, *pro se*
940 BLANCH AVENUE
NORWOOD, NJ 07648

BERGEN COUNTY SUPERIOR COURT
CIVIL DIVISION – MAIN OFFICE
10 MAIN STREET, ROOM 115
HACKENSACK, NJ 07601

**CLERK,
SUPERIOR COURT OF NEW JERSEY
HUGHES JUSTICE COMPLEX
25 WEST MARKET STREET
CN 971
TRENTON, NEW JERSEY 08625**

Defendants All About the Baby LLC (“AAB”) and Lloyd Ecker (together, “Defendants”) hereby give notice to the Court pursuant to 28 U.S.C. § 1441 of the removal of this action, Docket No. BER-L-9209-15 (the “State Action”), from the Superior Court of New Jersey, Bergen County, Law Division, to the United States District Court for the District of New Jersey. In support of removal, Defendants state as follows:

1. Plaintiff Richard M. Zelma (“Plaintiff”) commenced the State Action on October 22, 2015, by filing a Summons and Complaint with the Bergen County Clerk.
2. AAB was served with a copy of the Summons and Complaint in the State Action on or about November 19, 2015. A true copy of the Summons and Complaint is attached hereto as Exhibit A.
3. To the best of his knowledge, Mr. Ecker has not been personally served with a copy of the Summons and Complaint in the State Action. He, however, consents to the removal of the State Action.
4. Plaintiff alleges that Defendants violated the Telephone Consumer Protection Act (“TCPA”), 47 U.S.C. § 227(b)(1)(B), by, *inter alia*, placing calls to his landline residential telephone without his prior express consent. *See* Exhibit A, Count One.
5. Plaintiff further alleges that Defendants violated the TCPA, 47 U.S.C. § 227(c), by, *inter alia*, placing calls to his landline residential telephone, which number is on the National Do-Not-Call List. *Id.* at Count Two.

6. Plaintiff further alleges that he is entitled to treble damages for Defendants' willful or knowing violations of the TCPA. *Id.* at Count Three.

7. Finally, Plaintiff alleges that Defendants violated the New Jersey Consumer Fraud Act, N.J.S.A. 56:8-119 *et seq.*, by initiating telemarketing calls with the intent to encourage the purchase or investment in Defendants' baby products. *Id.* at Count Four.

8. This Court has federal question jurisdiction over Plaintiff's TCPA claims under 28 U.S.C. § 1331. This Court also has supplemental jurisdiction over Plaintiff's state and common law claims alleged in the Complaint pursuant to 28 U.S.C. § 1337 because those claims are so related to the federal claims that they form part of the same case or controversy.

9. Defendants are entitled to seek the removal of this matter pursuant to 28 U.S.C. § 1446(b), as this Notice of Removal has been filed within thirty (30) days of service of the Complaint in the State Action.

10. Therefore, the State Action is properly removed to this Court pursuant to 28 U.S.C. § 1441(a) because the District Courts have original jurisdiction of all civil actions arising under the Constitution, laws or treaties of the United States.

11. Venue is proper in the Newark Vicinage because Plaintiff's Complaint was filed in the Superior Court of New Jersey, Bergen County, Law Division.

12. Pursuant to 28 U.S.C. § 1446(d), written notice of this Notice of Removal has been provided to Plaintiff and shall promptly be filed with the Clerk of the Superior Court of New Jersey, Bergen County, Law Division.

13. Defendants submit this Notice of Removal without waiving any defenses to the claims asserted by Plaintiff, and do not concede that Plaintiff has asserted any claims against Defendants upon which relief may be granted.

WHEREFORE, Defendants respectfully give notice to this Court of the removal of the State Action from the Superior Court of New Jersey, Bergen County, Law Division, to the United States District Court for the District of New Jersey, Newark Vicinage.

LOCAL RULE 11.2 CERTIFICATION

PURSUANT to Local Rule 11.2, the undersigned hereby certifies that the matter in controversy is not the subject of any action, other than the State Action, pending in any court or of a pending arbitration or administrative proceeding and no other action, arbitration or administrative proceeding is contemplated.

Dated: December 16, 2015

COUGHLIN DUFFY, LLP
350 Mount Kemble Avenue
Morristown, NJ 07962
Counsel for Defendants
All About the Baby LLC
and Lloyd Ecker

By: /s/ Mark S. Hanna

(MH6108)